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DECISIONS TO PROMOTE THE EFFECTIVE IMPLEMENTATION OF THE CONVENTION

FINANCIAL MECHANISM

Draft Memorandum of Understanding between the Conference of the Parties and the Council of the Global Environment Facility: Annex on the determination of funding necessary and available for the implementation of the Convention

Note by the secretariat

1. The Conference of the Parties at its first session (COP 1), by its decision 10/CP.1, requested the secretariat, in consultation with the secretariat of the Global Environment Facility (GEF) and bearing in mind comments made at the eleventh session of the Intergovernmental Negotiating Committee, to prepare draft arrangements for consideration by the Subsidiary Body for Implementation (SBI) at its first session and adoption by the COP at its second session (FCCC/CP/1995/7/Add.1).

2. Following consultations between the secretariats of the Convention and the GEF, a draft Memorandum of Understanding was prepared for consideration by the SBI and the Council of the GEF (see FCCC/SBI/1995/3). The draft Memorandum of Understanding was approved by the Council of the GEF at its meeting of July 1995, and the SBI, at its first session, by its decision 2/SBI.1, decided to recommend to the COP to adopt the draft Memorandum annexed to the decision (see FCCC/SBI/1995/5).

3. The SBI in that decision also requested the secretariats of the Convention and of the GEF to elaborate jointly the annex to the Memorandum of Understanding on procedures to facilitate the joint determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of the Convention and the conditions under which that amount should be periodically reviewed, as referred to in paragraph 9 of the Memorandum. The SBI also decided to consider the annex after its adoption by the Council of the GEF and prior to its adoption by the COP at its second session.

4. The annex elaborated jointly by the two secretariats was considered by the Council of the GEF at its meeting of April 1996 and approved. The SBI is invited to consider the attached annex to the Memorandum of Understanding and to recommend its adoption by the COP.

Annex

DRAFT MEMORANDUM OF UNDERSTANDING BETWEEN THE CONFERENCE OF THE PARTIES TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE AND THE COUNCIL OF THE GLOBAL ENVIRONMENT FACILITY

This Memorandum of Understanding is concluded between the Conference of the Parties (hereinafter referred to as "the COP") to the United Nations Framework Convention on Climate Change (hereinafter referred to as "the Convention") and the Council of the Global Environment Facility (hereinafter referred to as the "Council of the GEF"), the international entity entrusted on an interim basis with the operation of the financial mechanism referred to in Article 11 of the Convention.

INTRODUCTION

The Parties to this Memorandum of Understanding,

Recalling Article 11 of the Convention and recognizing that the financial mechanism is to provide financial resources on a grant and concessional basis, including for the transfer of technology, and is to function under the guidance of and be accountable to the COP, which shall decide on its policies, programme priorities and eligibility criteria related to the Convention,

Recalling Article 11.1 which states that the operation of the financial mechanism shall be entrusted to one or more existing international entities,

Recalling also the decision of the first session of the COP on the maintenance of the interim arrangements referred to in Article 21.3 that the restructured GEF shall continue, on an interim basis, to be the international entity entrusted with the operation of the financial mechanism, referred to in Article 11,

Recalling further the willingness of the GEF to serve for the purposes of the financial mechanism of the Convention as provided in paragraph 6 of the Instrument for the Establishment of the Restructured Global Environment Facility (hereinafter referred to as "the Instrument"),

Recalling that in accordance with Article 11.3, the COP and the entity or entities entrusted with the operation of the financial mechanism shall agree upon arrangements to give effect to Article 11.1 and 11.2,

Recalling further that, in accordance with paragraph 27 of the Instrument, the Council of the GEF is to consider and approve cooperative arrangements with the COP,

Have agreed as follows:

Purpose of arrangements

1. The purpose of this Memorandum is to give effect to the respective roles and responsibilities of the COP, the supreme body of the Convention, and the GEF, the international entity entrusted with the operation of the financial mechanism and to provide for the required interaction between them under Article 11 of the Convention and paragraphs 26 and 27 of the Instrument.

Determination and communication of guidance from the COP

2. The COP will, pursuant to Article 11.1, decide on policies, programme priorities and eligibility criteria related to the Convention for the financial mechanism which shall function under the guidance of and be accountable to the COP.

3. The COP will, after each of its sessions, communicate to the Council of the GEF any policy guidance approved by the COP concerning the financial mechanism.

Conformity with COP guidance

4. The Council will ensure the effective operation of the GEF as a source of funding activities for the purposes of the Convention in conformity with the guidance of the COP. It will report regularly to the COP on its activities related to the Convention and on the conformity of those activities with the guidance received from the COP.

Reconsideration of funding decisions

5. The funding decisions for specific projects should be agreed between the developing country Party concerned and the GEF in conformity with policy guidance from the COP. The Council of the GEF is responsible for approving the GEF work programmes. If any Party considers that a decision of the Council regarding a specific project in a proposed work programme does not comply with the policies, programme priorities and eligibility criteria established by the COP in the context of the Convention, the COP should analyse the observations presented to it by the Party and take decisions on the basis of compliance with such policies, programme priorities and eligibility criteria. In the event that the COP considers that this specific project decision does not comply with the policies, programme priorities and eligibility criteria established by the COP, it may ask the Council of the GEF for further clarification on the specific project decision and in due time may ask for a reconsideration of that decision.

Reports from the GEF to the COP

6. Annual reports of the GEF will be made available to the COP through its secretariat. Other official public documentation of the GEF will also be made available to the COP through its secretariat. In order to meet the requirement of its accountability to the COP, the Annual Report of the GEF will cover all GEF-financed activities carried out in implementing the Convention, whether such activities are carried out by the GEF Implementing Agencies, the GEF Secretariat or by executing agencies implementing GEF-financed projects. To this end, the Council of the GEF will require all such bodies, with respect to GEF-financed activities, to comply with GEF policy on disclosure of information.

7. In its reporting on GEF-financed activities under the financial mechanism, the GEF should include specific information on how it has applied the guidance and decisions of the COP in its work related to the Convention. This report should be of a substantive nature and incorporate the programme of GEF activities in the areas covered by the Convention and an analysis of how the GEF, in its operations related to the Convention, has implemented the policies, programme priorities and eligibility criteria established by the COP. In particular, a synthesis of the different projects under implementation and a listing of the projects approved by the Council in the climate change focal area as well as a financial report with an indication of the financial resources required for those projects should be included. The Council should also report on its monitoring and evaluation activities concerning projects in the climate change focal area.

8. The Council of the GEF may seek guidance from the COP on any matter it considers relevant to the operation of the financial mechanism of the Convention.

Determination of funding necessary and available

9. In accordance with Article 11.3(d) of the Convention, which calls for arrangements to determine in a predictable and identifiable manner the amount of funding necessary and available for the implementation of the Convention and the conditions under which that amount shall be periodically reviewed, the COP and the Council shall jointly determine the aggregate GEF funding requirements for the purpose of the Convention. Procedures to facilitate such a joint determination will be developed by the COP and the Council and annexed to this Memorandum.

Cooperation between secretariats

10. The secretariats of the Convention and of the GEF shall cooperate and exchange on a regular basis views and experiences necessary to facilitate the effectiveness of the financial mechanism in assisting Parties to implement the Convention.

Representation in meetings of governing bodies

11. The participation of representatives of the Council of the GEF in meetings of the COP and of its subsidiary bodies will be governed by the rules of procedure of the COP. Likewise, the participation of representatives of the Convention in meetings of the Council of the GEF will be determined in accordance with the rules of procedure of the Council of the GEF. In formulating and applying its rules, each organization will make every effort to accord the other organization reciprocal representation privileges.

Review and evaluation of the financial mechanism

12. The COP will periodically review and evaluate the effectiveness of all modalities established in accordance with Article 11.3. Such evaluations will be taken into account by the COP in its decision, pursuant to Article 11.4, on arrangements for the financial mechanism.

Modification of the Memorandum of Understanding

13. This Memorandum of Understanding may only be modified in writing by agreement between the COP and the Council of the GEF.

Entry into effect

14. This Memorandum of Understanding shall come into force upon its approval by the COP of the Convention and the Council of the GEF.

Termination

15. This Memorandum of Understanding may be terminated by either Party giving six months' notice in writing to the other.

ANNEX TO THE MEMORANDUM OF UNDERSTANDING

Determination of funding necessary and available for the implementation of the Convention

In accordance with Article 11.3(d) of the Convention, which calls for arrangements to determine in a predictable and identifiable manner the amount of funding necessary and available for the implementation of the Convention and the conditions under which that amount shall be periodically reviewed, the COP and the Council will jointly determine the aggregate GEF funding requirements for the purpose of the Convention in accordance with the following procedures.

1. In anticipation of a replenishment of the GEF, the COP will make an assessment of the amount of funds that are necessary to assist developing countries, in accordance with the guidance provided by the COP, in fulfilling their commitments under the Convention over the next GEF replenishment cycle, taking into account:

(a) The information communicated to the COP under Article 12 of the Convention;

(b) National programmes formulated under Article 4.1(b) of the Convention and progress made by Parties in the implementation of such national programmes and towards the achievement of the Convention's objective;

(c) Information communicated to the COP from the GEF on the number of eligible programmes and projects that were submitted to the GEF, the number that were approved for funding, and the number that were turned down owing to lack of resources;

(d) Other sources of funding available for the implementation of the Convention.

2. The GEF replenishment negotiations will take into account the COP's assessment.

3. On the occasion of each replenishment, the GEF will, in its regular report to the COP as provided for in paragraphs 6 and 7 of this Memorandum of Understanding, indicate how it has responded during the replenishment cycle to the COP's previous assessment prepared in accordance with paragraph 1 of this annex, inform the COP of the conclusion of replenishment negotiations and indicate the amount of new and additional funding to be contributed to the GEF Trust Fund in the next replenishment cycle for the purposes of the GEF, including the implementation of the Convention. The COP may, in its action on the GEF reports, consider the adequacy of the resources available for implementation of the Convention.

4. The reiteration of this process on the occasion of each replenishment will present the opportunity to review the amount of funding necessary and available for the implementation of the Convention in accordance with Article 11.3(d).

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